

SENATE BILL 2153

By Haynes

AN ACT to amend Tennessee Code Annotated, Title 7, Chapter 63; Title 16, Chapter 1; Title 40, Chapter 7 and Title 55, Chapter 50, relative to methods of acknowledgment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated Section 7-63-102, is amended by deleting the section in its entirety and by substituting instead the following:

§ 7-63-102

In order to prevent the offender's arrest and the issuance of the warrant against the offender, the offender must sign or affix a fingerprint to, or sign and affix a fingerprint to, an agreement to appear at the time and place indicated, and to waive the issuance and service of a warrant upon the offender.

SECTION 2. Tennessee Code Annotated Section 7-63-104, is amended by deleting the first sentence in the section and substituting instead the following:

In the event the offender refuses to sign or properly affix the offender's fingerprint to, or sign and properly affix the offender's fingerprint to, the agreement to appear in court and to waive the issuance and service upon the offender of a warrant, then it shall be the duty of the officer, in whose presence the offense is committed, forthwith to place the offender under arrest and take the offender before the proper authority, procure a warrant, serve the warrant upon the offender and book the offender as in other cases of violations.

SECTION 3. Tennessee Code Annotated Section 7-63-105, is amended by deleting the first sentence in the section and substituting instead the following:

In the event that the offender signs or properly affixes a fingerprint to, or signs and properly affixes a fingerprint to, the agreement and waiver as provided in § 7-63-102, and then fails to appear for trial at the time and place designated, then the court having jurisdiction of the case shall immediately issue a warrant against the offender for the offense, and an additional warrant for the offense of violating the agreement to appear; provided, that the municipal, metropolitan or city government has made the failure so to appear an offense, or has adopted the state law creating such offense.

SECTION 4. Tennessee Code Annotated Section 7-63-203, is amended by deleting the section in its entirety and substituting instead the following:

§ 7-63-203

In the event the offender refuses to sign or properly affix a fingerprint to, or sign and properly affix a fingerprint to, the ordinance summons agreement to appear in court, the municipal enforcement officer in whose presence the violation is committed may have a summons issued by the clerk of the municipal, metropolitan, or city court, or the municipal enforcement officer may seek the assistance of a police or peace officer to witness the violation, who may issue a citation in lieu of arrest for the violation or make arrest for failure to sign or properly affix a fingerprint to, or sign and properly affix a fingerprint to, the citation in lieu of arrest, as provided in § 7-63-104.

SECTION 5. Tennessee Code Annotated Section 7-63-204, is amended by deleting the section in its entirety and substituting instead the following:

§ 7-63-204

Failure of the offender to appear for trial after signing or properly affixing a fingerprint to, or signing and properly affixing a fingerprint to, the ordinance

summons agreement shall cause the court having jurisdiction to issue a warrant against the offender, as provided for in § 7-63-105.

SECTION 6. Tennessee Code Annotated Section 16-1-115, is amended by deleting the section it in its entirety and substituting instead the following:

§ 16-1-115

Notwithstanding any law to the contrary, courts in this state may implement procedures for the use of electronic signatures or electronic fingerprint captures in the signing of pleadings, court orders, judgment orders, affidavits of complaint, arrest warrants, a mittimus or other court documents. An electronic signature or electronic fingerprint capture may be used to sign a document and shall have the same force and effect as a written signature or fingerprint.

SECTION 7. Tennessee Code Annotated Section 40-7-118(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) "Citation" means a written order issued by a peace officer requiring a person accused of violating the law to appear in a designated court or governmental office at a specified date and time. The order shall require the signature or fingerprint, or signature and fingerprint, of the person to whom it is issued;

SECTION 8. Tennessee Code Annotated Section 40-7-118(c), is amended by deleting subdivision (6) in its entirety and substituting instead the following:

(6) The person demands to be taken immediately before a magistrate or refuses to sign or properly affix the person's fingerprint to, or sign and properly affix the person's fingerprint to, the citation;

SECTION 9. Tennessee Code Annotated Section 40-7-118(d), is amended by deleting subdivision (2) in its entirety and substituting instead the following:

(2) Have the offender sign or properly affix the offender's fingerprint to, or sign and properly affix the offender's fingerprint to, the original and duplicate copy of the citation. The officer shall deliver one (1) copy to the offender and retain the other; and

SECTION 10. Tennessee Code Annotated Section 40-7-118(k), is amended by deleting subdivision (2) in its entirety and by substituting instead the following:

(2) Each person receiving a citation under this section shall sign or properly affix the person's fingerprint to, or sign and properly affix the person's fingerprint to, this citation indicating the knowledge of the notice listed in subdivision (k)(1). The signature or fingerprint, or signature and fingerprint, of each person creates a presumption of knowledge of the notice and a presumption of intent to violate this section if the person should not appear as required by the citation.

SECTION 11. Tennessee Code Annotated Section 40-7-120(a), is amended by deleting subdivision (1) in its entirety and substituting instead the following:

(1) "Citation" means a written order issued by a sheriff requiring a person accused of violating the law to appear in a designated court at a specified date and time. The order shall require the signature or properly affixed fingerprint, or signature and properly affixed fingerprint, of the person to whom it is issued; and

SECTION 12. Tennessee Code Annotated Section 40-7-120(d), is amended by deleting the third sentence and substituting instead the following:

The person cited shall signify the person's acceptance of the citation and the person's agreement to appear in court as directed by signing or properly affixing a fingerprint to, or signing and properly affixing a fingerprint to, the original citation.

SECTION 13. Tennessee Code Annotated Section 40-7-120, is amended by deleting subsection (f) in its entirety and substituting instead the following:

(f) The signature or properly affixed fingerprint, or signature and properly affixed fingerprint, of the person cited shall create a presumption of knowledge of notice to appear and a presumption of intent to violate this section if the person should not appear as required by the citation.

SECTION 14. Tennessee Code Annotated Section 40-7-120(k), is amended by deleting subdivision (3) in its entirety and substituting instead the following:

(3) The person demands to be taken immediately before a magistrate or refuses to sign or properly affix the person's fingerprint to, or sign and properly affix the person's fingerprint to, the citation;

SECTION 15. Tennessee Code Annotated Section 55-50-701, is amended by deleting subdivision (7) in its entirety and substituting instead the following:

(7) "Personal recognizance" means an agreement by an arrested motorist that the motorist will comply with the terms of the citation served upon the motorist at the time of arrest. Such agreement shall bear the signature or fingerprint, or signature and fingerprint, of the motorist;

SECTION 16. Tennessee Code Annotated Section 55-50-703(c), is amended by deleting the language "personal recognizance signed by the nonresident" and substituting instead the language "personal recognizance affixed by the nonresident".

SECTION 17. This act shall take effect July 1, 2009, the public welfare requiring it.